

STATE OF LOUISIANA

NO. 24-KA-504

VERSUS

FIFTH CIRCUIT

RANISHE S. KETCHENS

COURT OF APPEAL

STATE OF LOUISIANA

ON APPEAL FROM THE TWENTY-FOURTH JUDICIAL DISTRICT COURT
PARISH OF JEFFERSON, STATE OF LOUISIANA
NO. 21-2741, DIVISION "A"
HONORABLE RAYMOND S. STEIB, JR., JUDGE PRESIDING

July 30, 2025

SUSAN M. CHEHARDY
CHIEF JUDGE

Panel composed of Judges Susan M. Chehardy,
Stephen J. Windhorst, and E. Adrian Adams, Pro Tempore

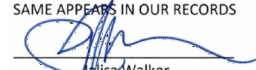
SENTENCE ON COUNT ONE VACATED; REMANDED WITH
INSTRUCTIONS

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FIFTH CIRCUIT COURT OF APPEAL
A TRUE COPY OF DOCUMENTS AS
SAME APPEARS IN OUR RECORDS


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Honorable Paul D. Connick, Jr.

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CHEHARDY, C.J.

Defendant, Ranishe S. Ketchens, appeals her five-year sentence for possession of oxycodone with a weight of under two grams as illegally excessive. For the reasons that follow, we vacate the five-year sentence resulting from Ms. Ketchens' possession of oxycodone conviction and remand the matter for further proceedings consistent with this opinion.

PROCEDURAL HISTORY

On May 13, 2021, the Jefferson Parish District Attorney filed a bill of information charging Ms. Ketchens with possession of a firearm while in possession of oxycodone, a violation of La. R.S. 14:95(E) (count one); possession of marijuana with intent to distribute less than two-and-a-half pounds, a violation of La. R.S. 40:966(A) (count two); and, possession of cocaine between two and twenty-eight grams, a violation of La R.S. 40:967(C) (count three). Ms. Ketchens initially pled not guilty on June 10, 2021. All three counts were alleged to have occurred on April 11, 2021. Ms. Ketchens was arraigned on June 10, 2021, and entered a plea of not guilty, *in absentia*.

On November 2, 2021, pursuant to a plea agreement, the State amended the bill of information as to count one to charge Ms. Ketchens with possession of oxycodone, with a weight of less than two grams, a violation of La. R.S. 40:967(C). Ms. Ketchens withdrew her not guilty pleas and pled guilty to the amended charge on count one and as charged to counts two and three. On that same date, the district court agreed to defer sentencing on counts one and three pursuant to La. C.Cr.P. art. 893, and placed Ms. Ketchens on active probation for a term of thirty-six months for each count. On count two, the district court sentenced Ms. Ketchens to three years imprisonment at hard labor and imposed a

\$500.00 fine.¹ The court, however, suspended the three-year sentence and placed Ms. Ketchens on three years of active probation. The district court further ordered that all sentences were to be served concurrently.

A motion and order for a hearing to revoke Ms. Ketchens' probation was filed on July 10, 2024. On August 15, 2024, pursuant to a stipulation, the district court revoked Ms. Ketchens' probation and sentenced her to five years imprisonment at hard labor for count one and count three,² respectively, and ordered the three-year sentence previously imposed on count two executory, with all sentences to be served concurrently. The court advised Ms. Ketchens that all fees, fines, and costs previously assessed were owed and due.

This timely appeal of the district court's August 15, 2024 judgment, solely as to the sentence imposed on count one, followed.

FACTUAL BACKGROUND

In this case, because Ms. Ketchens' convictions resulted from a guilty plea, the circumstances surrounding the offenses were not fully developed at trial. However, during the guilty plea colloquy on November 2, 2021, before the district court accepted Ms. Ketchens' guilty pleas, the State did allege the following factual basis:

[I]n case number 21-2741, had the State proceeded to trial, the State would have proved beyond a reasonable doubt as to ... Ranishe Ketchens, in Count 1, ... that on April 11th of 2021, the defendant while in the Parish of Jefferson violated Louisiana Revised Statute 40:976(C)

¹ The district court also ordered Ms. Ketchens to pay court costs of \$592.00, a commissioner's fund fee of \$175.00, a special fine of \$150.00 to the Intensive Probation Program Drug Court, and a \$2.00 indigent transcript fee. Additionally, the district court ordered Ms. Ketchens to pay an \$89.00 per month probation supervision fee, plus an additionally \$11.00 per month assessment. The court advised Ms. Ketchens that she had twelve months within which to pay all fees, fines, and costs, and that she was to refrain from any and all criminal conduct, including the use of any prohibited drugs or controlled dangerous substances. Ms. Ketchens was further advised that she would be drug tested.

² The transcript reflects the district court imposed a sentence of five years imprisonment at hard labor on counts one and three, respectively. The sentencing minute entry and the Louisiana Uniform Commitment Order ("UCO"), however, reflect that three-year concurrent sentences at hard labor were imposed on counts two and three, and a five-year sentence was imposed on count one. In the case of a conflict between the transcript and the minute entry or the UCO, the transcript prevails. *State v. Lynch*, 441 So.2d 732 (La. 1983); *State v. Haynes*, 23-494 (La. App. 5 Cir. 7/31/24), 393 So.3d 1160, 1166.

in that she knowingly or intentionally possessed a controlled substance; to wit, Oxycodone weighing less than 2 grams.

As to Count 2 on that same day, the defendant, Ranishe Ketchens, violated Louisiana Revised Statute 40:966(A) in that she knowingly or intentionally possessed with intent to distribute a controlled dangerous substance; to wit, marijuana weighing less than 2/5 pounds.

In Count 3, the defendant violated Louisiana Revised Statute – and this is as to Ranishe Ketchens – 40:967(C) in that she knowingly or intentionally possessed a controlled substance; to wit, cocaine weighing between 2 and 27.9 grams.

The record reflects that Ms. Ketchens was again arrested on July 9, 2024 for possession with the intent to distribute marijuana. A rule to revoke Ms. Ketchens' probation was filed on July 10, 2024, which additionally charged that she had failed to pay the cost of probation and was \$2,630.00 in arrears. The rule to revoke was heard on August 15, 2024. After the defense stipulated that Ms. Ketchens had not complied with the conditions of probation, the district court revoked her probation. The sentencing transcript shows that the district court set aside the sentence previously imposed on November 2, 2021, and imposed sentences of five years at hard labor on count one and count three, respectively, made the three-year sentence at hard labor on count two executory, and ordered all sentences to be served concurrently.³

LAW AND DISCUSSION

Errors Patent Review

This Court routinely reviews an appellate record for errors patent in accordance with La. C.Cr.P. art. 920; *State v. Oliveaux*, 312 So.2d 337 (La. 1975); and, *State v. Weiland*, 556 So.2d 175 (La. App. 5th Cir. 1990). An error patent is one which is

³ As previously noted, a conflict exists between the sentencing transcript, the minute entry of the revocation hearing, and the UCO as to the sentence imposed on count three (the former states a sentence of five years at hard labor, whereas the latter both reflect three years at hard labor); this appeal, however, does not seek review of the sentences imposed by the district court on counts two or three—Ms. Ketchens only challenges the five-year sentence imposed on count one.

“discoverable by a mere inspection of the pleadings and without inspection of the evidence.” La. C.Cr.P. art. 920(2); *see also State v. Kelly*, 15-484 (La. 6/29/16), 195 So.3d 449, 453. After reviewing the record, we find there are three errors patent.

1. *Excessive Sentence*

The first error is raised in Ms. Ketchens’s sole assignment of error on appeal; that is, that her five-year sentence at hard labor for possession of oxycodone with a weight of under two grams on count one is illegal as it exceeds the statutory maximum sentence. We agree. La. R.S. 40:967(C) sets forth the penalty provision for possession of oxycodone weighing less than two grams. At the time of the offense, La. R.S. 40:967(C) provided, in pertinent part:

C. Possession. It is unlawful for any person knowingly or intentionally to possess a controlled dangerous substance as classified in Schedule II unless such substance was obtained directly or pursuant to a valid prescription or order from a practitioner, as provided in R.S. 40:978 while acting in the course of his professional practice, or except as otherwise authorized by this Part. Any person who violates this Subsection with respect to:

- (1) An aggregate weight of less than two grams, shall be imprisoned, with or without hard labor, for not more than two years and, in addition, may be sentenced to pay a fine of not more than five thousand dollars.

In the present case, the district court sentenced Ms. Ketchens to five years imprisonment at hard labor on the possession of oxycodone charge, a sentence that is three years more than the two-year sentence that is statutorily authorized. Therefore, as acknowledged by the State, the district court applied the wrong sentencing range for possession of oxycodone weighing less than two grams when it imposed an improper sentence upon Ms. Ketchens as to count one. Consequently, the five-year sentence imposed exceeds the maximum sentencing limit on count one and must be vacated and remanded for resentencing.

Pursuant to La. C.Cr.P. art. 882, an appellate court can correct an illegal sentence at any time. However, an appellate court is authorized to correct an illegal sentence only when the exercise of sentencing discretion is not involved. *State v. Brown*, 22-562 (La. App. 5 Cir. 6/21/23), 368 So.3d 218, 222. Since sentencing discretion is involved in the instant matter, we vacate the five-year sentence imposed for Ms. Ketchen's conviction on count one and remand the matter to the district court for resentencing pursuant to the provisions of La. R.S. 40:967(C).

2. Discrepancy Between Transcript, Minute Entry, and UCO

The second error patent concerns a discrepancy existing between the sentencing transcript, the sentencing minute entry of the revocation hearing, and the UCO. The sentencing transcript reveals that on August 15, 2024, Ms. Ketchens' probation was revoked, and the district court sentenced her to five years imprisonment at hard labor on each of counts one and three. The district court sentenced Ms. Ketchens to three years imprisonment on count two. However, the sentencing minute entry and the UCO reflect that the district court ordered a three-year sentence at hard labor on count three, not the five years as ordered by the district court as reflected in the transcript.

Generally, the transcript prevails when there is an inconsistency between the sentencing minute entry and the transcript. *State v. Lynch*, 441 So.2d at 734. Therefore, to ensure accuracy in the record, on remand, we instruct the district court to amend the minute entry and UCO to correctly reflect the district court's imposition of a five-year sentence at hard labor on count three as per the transcript, rather than a three-year sentence. Additionally, the Clerk of Court for the Twenty-Fourth Judicial District Court is ordered to transmit the original of the corrected UCO to the officer in charge of the institution to which Ms. Ketchens has been

sentenced as well as the Department of Corrections' legal department. *See State v. Tenner*, 24-51 (La. App. 5 Cir. 10/16/24), 398 So.3d 761, 766-67.

3. *Post-Conviction Relief Advisal*

The third error patent involves the district court's post-conviction relief advisal. The transcript reflects that on August 15, 2024, after revoking Ms. Ketchens' probation and sentencing, the district court advised Ms. Ketchens that she had "2 years within which to seek post-conviction relief." The sentencing minute entry reflects that the district court advised Ms. Ketchens that she had "two (2) years after judgment of conviction and sentence has become final to seek post-conviction relief." The transcript prevails. *See Lynch*, 441 So.2d at 734. The failure of the district court to advise Ms. Ketchens that the prescriptive period for seeking post-conviction relief runs from the time her conviction and sentence become final renders the advisal incomplete. *State v. Barnett*, 18-254 (La. App. 5 Cir. 4/3/19), 267 So.3d 209, 234-35.

It is well-settled that if a district court provides an incomplete advisal pursuant to La. C.Cr.P. art. 930.8, the appellate court may correct this error by informing the defendant of the applicable prescriptive period for post-conviction relief by way of its opinion. Accordingly, we hereby advise Ms. Ketchens that no application for post-conviction relief, including applications which seek an out-of-time appeal, shall be considered if filed more than two years after the judgment of conviction and sentence has become final under the provisions of La. C.Cr.P. arts. 914 or 922.

For the foregoing reasons, we vacate the five-year sentence imposed for Ms. Ketchen's conviction on count one and remand the matter to the district court for resentencing pursuant to the provisions of La. R.S. 40:967(C).

**SENTENCE ON COUNT ONE VACATED;
REMANDED WITH INSTRUCTIONS**

SUSAN M. CHEHARDY
CHIEF JUDGE

FREDERICKA H. WICKER
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NOTICE OF JUDGMENT AND CERTIFICATE OF DELIVERY

I CERTIFY THAT A COPY OF THE OPINION IN THE BELOW-NUMBERED MATTER HAS BEEN DELIVERED IN ACCORDANCE WITH **UNIFORM RULES - COURT OF APPEAL, RULE 2-16.4 AND 2-16.5** THIS DAY **JULY 30, 2025** TO THE TRIAL JUDGE, CLERK OF COURT, COUNSEL OF RECORD AND ALL PARTIES NOT REPRESENTED BY COUNSEL, AS LISTED BELOW:

CURTIS B. PURSELL
CLERK OF COURT

24-KA-504

E-NOTIFIED

24TH JUDICIAL DISTRICT COURT (CLERK)
HON. RAYMOND S. STEIB, JR. (DISTRICT JUDGE)
CHAD M. IKERD (APPELLANT)
JULIET L. CLARK (APPELLEE)

KATHERINE M. FRANKS (APPELLANT)
THOMAS J. BUTLER (APPELLEE)

DARREN A. ALLEMAND (APPELLEE)

MAILED

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